

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
(Richmond Division)**

**DOUGLAS BALDWIN, et al.** )  
Plaintiffs, )  
v. )  
**AMERICAN VAN LINES, INC.** )  
Defendant. )  
Case No.: 3:23-CV-00474

## **MOTION TO DISMISS<sup>1</sup>**

COMES NOW the Defendant, AMERICAN VAN LINES, INC. (hereafter referred to as "Defendant"), by counsel, and hereby files its Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

In support hereof, Defendant adopts and incorporates its Demurrer as filed in the Circuit Court for Hanover County, and respectfully requests that this Court convert said Demurrer into its functionally equivalent Motion to Dismiss Rule 12(b)(6). In further support hereof, Defendant respectfully refers the Court to its Memorandum in Support of Motion to Dismiss, which is filed contemporaneously herewith and is incorporated herein by reference.

<sup>1</sup> This Motion to Dismiss is filed out of an abundance of caution, and to specifically request ruling on Defendant's previously-filed demurrer. Repleading after removal is unnecessary unless the court orders it. Fed. R. Civ. P. 81(c)(2). "Accordingly, after removal, the demurrer filed in state court will be treated as the federal equivalent — a motion to dismiss for failure to state a claim." *Nelson v. Shockley*, 2019 WL 2375144, at \*1 (W.D. Va. June 5, 2019) (citing *Perry v. Safeco*, 2017 WL 655172, at \*1 n.2 (E.D. Va. Feb. 16, 2017) (internal quotation marks and citation omitted)).

WHEREFORE, for the reasons set forth herein and those set forth in its Memorandum in Support of Motion to Dismiss, Defendant AMERICAN VAN LINES, INC., respectfully requests that this Court enter an order granting its Motion to Dismiss, and dismiss Plaintiffs' Complaint in its entirety, with prejudice.

Respectfully submitted this 4<sup>th</sup> day of August, 2023.

AMERICAN VAN LINES, INC.

By Counsel

/s/

Lindsey A. Lewis, Esq., Va. Bar #73141  
[llewis@fandpnet.com](mailto:llewis@fandpnet.com)  
FRANKLIN & PROKOPIK, P.C.  
5516 Falmouth Street, Suite 203  
Richmond, VA 23230  
Telephone: (804) 932-1996  
Facsimile: (804) 403-6007  
*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4<sup>th</sup> day of August, 2023, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which (if counsel has registered with CM/ECF) will then send a notification of such filing (NEF) to the following:

W.R. Baldwin, III  
[billbaldwin@meyerbaldwin.com](mailto:billbaldwin@meyerbaldwin.com)  
Meyer Baldwin Long & Moore, LLP  
5600 Grove Avenue  
Richmond, VA 23226  
*Counsel for Plaintiffs*

/s/

Lindsey A. Lewis